

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
January 24, 2006**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Kenny, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Beler

At 8:00 P.M., Chairman Damanti read the first agenda item:

PUBLIC HEARING

Coastal Site Plan Review #188-A, Flood Damage Prevention Application #199-A, Jay Wilderotter, 59 Five Mile River Road. Proposing to construct a low retaining wall, install stone capping on the existing rubble river embankment, new landscaping along the river edge, and proposed boat ramp and landing, and perform related site development activities within regulated areas. *WITHDRAWN ON 1/20/2006.*

Mr. Damanti noted that this item had been withdrawn. He then read the next agenda item:

Public Hearing regarding the draft Town Plan of Conservation & Development prepared by the Darien Planning & Zoning Commission. This draft plan has been filed in the office of the Town Clerk.

Mr. Damanti explained that the plan discussed this evening is a draft, which consists of about three years of collecting information and drafting that Plan by the Planning and Zoning Commission. The thoughts and comments of many people in various groups are included, and were considered by the Commission in drafting the document. The Commission is here tonight to hear any public comments and input on the draft Town Plan. Mr. Damanti then noted that the Commission will eventually close the Public Hearing and discuss those comments and revise the draft plan as necessary. They will then send a "final" draft to the RTM for their consideration and comments.

Mr. Ginsberg confirmed that the Planning and Zoning Commission has been working on this Town Plan since 2003, which State Statutes require be completed every ten years. It is a guide and "roadmap," and it is not set in stone. It can be amended in the future as the need arises. He then outlined the format of the plan including goals, policies and recommendations within each chapter, and then the appendices at the end of each chapter, which includes the background information. Mr. Ginsberg noted that the draft Plan has been referred to SWRPA, and comments were received. In addition, the draft Town Plan was posted on the Town of Darien's web site. Mr. Damanti then asked if anyone from the general public wished to speak on the Plan.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 2

Mr. Tom Zawocki said that he is a varsity baseball coach, and he is now a resident of Darien and the owner of 154-178 Heights Road. This building was recently renovated. He had a concern regarding Page A3-15 of the Draft Town Plan, especially the second to last paragraph. He believed that it is the Town's responsibility to fix the culvert on Heights Road. He noted that in 1976, the DPUC made a finding that the Town is responsible. He said that a study is now underway, but needs to be finished and a solution must be implemented by the Town.

Mr. David Genovese of 15 Baywater Drive said that he owned several properties in Darien. He explained that he has read the 1995 Town Plan and the proposed 2005-2006 Draft Plan. He stated his desire to expand municipal parking lots and commercial development. He also noted the desire to have the downtown district as the destination and then have pedestrians walk from location to location rather than drive and park at each site. Overall, he said that he supports the Draft Plan with respect to downtown development.

Mr. Wilder Gleason then submitted a letter dated January 24, 2006. He said that affordable housing needs to be reconsidered as an alternative to mostly single family housing within the community. He said that every neighborhood is now at risk. He suggested that the Planning and Zoning Commission be pro-active, such as: Adopting a moratorium for large affordable housing projects as specifically allowed by Section 8-30g; establish a committee or commission to deal with affordable housing; identify specific parcels capable and suitable for affordable housing; allow apartments above commercial uses in downtown; allow higher buildings and density downtown as financial incentives for redevelopment of underutilized properties; consider congregate senior housing or condominiums with age restrictions. He said that the Commission needs to have pro-active statements in the Town Plan. Mr. Gleason continued by noting that the Commission needs to revitalize downtown by reducing required parking and they should also allow higher municipal buildings. He said that the Commission should also consider regulating 25% total site development area ("impervious area"). He concluded by noting that due to the higher workload recently, the Commission should consider possibly separating the Planning and Zoning Commission into a separate Planning Commission and Zoning Commission so there is time to do much-needed long-range planning.

Ms. Ann Lynn then submitted a January 24, 2006 letter. She explained that many people are involved in the establishment of affordable housing in Darien. She said that there needs to be incentives for private developers to create affordable housing rather than relying solely on Town resources.

Mr. Andrew Glaser, an owner of property in Darien and a current resident of Rowayton, then spoke. He said that the Commission has missed the opportunity to convert an old office building on Tokeneke Road into residences for older citizens of this community. Mr. Conze said that this Planning and Zoning Commission has been more pro-active and more willing to listen than ever before. Mr. Kenny confirmed that the Commission is willing to work with developers. Mr. Damanti suggested that Mr. Glaser reevaluate his comments in light of the fact that this Planning and Zoning Commission has taken a greater role in being more flexible than ever.

Mr. Dan Dolcetti of 55 Noroton Avenue said that he had commented previously about the Town Plan. He was especially concerned about downtown parking, and suggested a "magic circle" type

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 3

of area like New Canaan's. He said that informal pre-application meetings are great and show a willingness by the Planning and Zoning Commission to work with applicants.

Mr. Joe Warren said that he sees many changes that have already occurred, and that specific language needs to be incorporated into the Town Plan. He said that relative to housing, there should be affirmative statements about accessory apartments and other issues. He also had comments about parking in downtown Darien.

Mr. Robert Young, the Chairman of the PZ&H Committee of the RTM, said that he would like additional time for his committee to review and comment on the plan. He said that pedestrian and bikeway paths should be incorporated and especially encouraged.

At approximately 9 P.M., Ms. Dot Kelly of 6 Lake Drive then spoke. She said that this "roadmap" is very important, and many people have the input to make sure that this Town Plan serves the Town well for the next 10 years. She said that conservation and environmental issues will be very important. She said that overall, the tone of the document needs to be changed from promoting growth to promoting conservation and growth. It is important to preserve what open space and environmental resources remain. She said that the Environmental Resources Chapter is formatted differently, and she suggested that the Commission revise it to make more sense. She specifically touched on issues regarding upland review of tidal wetlands; storm water management; conservation easements; conservation subdivision regulations; septic tank pollution; encroachment into Town property; tree review; and underground fuel tanks. She continued by noting her concern for reducing excess speeding within the Town for the safety of pedestrians and bicyclists. Mr. Conze noted that there needs to be a balance between conservation and development, which is difficult.

Mr. Frank Penn suggested adding a chapter entitled, "What if?". This would include possible elements that might impact the Town Plan, for example State actions on widening roads and emergencies.

Ms. Amy Zabetakis of Holmes Court said that she is a member of the Friends of Woodland Park, and that Turtle Pond within the Park has already been dredged. She said that she would like to see improvement of parking on the Middlesex Road side of the Park, but not on the West Avenue side of the Park. She said that it would be good to have an updated survey of Woodland Park because there is probably some encroachment from neighboring property owners. She specifically referred to page A8-4 of the Plan.

Mr. Damanti noted that due to the number of speakers and the Commission's meeting schedule this evening, he is willing to continue the Public Hearing on this matter. Mr. Bigelow then made a motion to continue the Public Hearing until February 14th at 8 p.m. in Room 206 of Town Mr. Damanti then read the next agenda item:

Special Permit Application #78-A, Noroton Fire Department, 1873 Boston Post Road. Proposing construct additions and alterations to the existing fire station building and to perform related site development activities. The subject property is located on the northeast corner formed by the intersection of Boston Post Road and Dickinson Road, and is shown on Assessor's Map #42 as Lot #7, in the R-1/3 Zone.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 4

Architect Neil Hauck was present to discuss the application with the Commission. He noted that this project received approval from the Zoning Board of Appeals last Wednesday in which two separate variances were granted. They went before the Architectural Review Board last Tuesday, and the application was well received. The original building was constructed in 1954 and had a one-story addition constructed in the rear in 1968. As part of this application, they propose a first-floor addition for an entry vestibule, an elevator with associated mechanical equipment, and storage. There will be no basement. There will be a second floor over the one-story portion for the new day room and new bathrooms and new kitchen and revised existing second floor. The peak of the height of the roof will not be increasing. There will be no increase in rate of runoff or amount of runoff because they are building over an already paved area.

There being no questions or comments from the audience, or from Commission members, the Public Hearing on this matter was closed at 9:33 P.M. Mr. Damanti then read the next agenda item:

Special Permit Application #241, Land Filling & Regrading Application #153, Rich & Karen Coyle, 28 Briar Brae Road. Proposing to construct a 25' x 30' play court in the southeast corner of the property and perform related site development activities. The subject property is located on the southeast side of Briar Brae Road, approximately 1,000 feet northeast of its intersection with Hoyt Street, and is shown on Assessor's Map #29 as Lot #33 in the R-1/2 Zone.

Mr. Richard Coyle was present to discuss his application. He said that he has four children who range in age from 8 to 10 years old and he explained to pave a portion of his back yard for a court. The court would be approximately 25' x 30' and consists of a play area with one basketball hoop. Mr. Coyle explained that even if the court was included in building coverage, then the property would still be under the 20% building coverage maximum. He explained that the project was already started and when he was notified that the court needed a Special Permit, and work ceased immediately. Access is temporarily taken through a neighbor's property. Mr. Coyle mentioned that the driveway is steep sloped toward the street and there is a nearby retaining wall and after that there is a drop-off. Thus, this area is not so good or safe for a play area. He explained that the proposed court is 75 feet plus or minus from all of the neighbors' houses, and the court is set back at least 10 feet from the nearest property line. The basketball hoop is towards the rear of the court and drainage will be directed into 3x3 dry wells. Hedges now exist to separate the court from the neighbors.

Mr. Coyle explained that the only known objectors to this plan are the Perkins next door. He said that the basketball hoop is very common in the neighborhood and this is very similar to other driveway hoops which now exist. He did not believe that he was overdeveloping the property. Mr. Coyle explained that this is not a wide open rolling countryside as there are fences, hedges and trees to separate yards throughout the Briar Brae Road neighborhood. Mr. Coyle mentioned that Mr. Perkins was looking for a landscape plan to soften the view of the court but not to block the view of their house from the court. He believed that if the Perkins want more screening to prevent the kids from seeing into their yard or their house, the Perkins are welcome to add more plantings on their own property. Mr. Coyle believed that the court is set as far as practical from all of the houses in the area. He said that a landscape hedge can mitigate basketballs going into their yard but he could do a fence if that is what the Commission wants. Relative to noise, Mr. Coyle explained that this is not like a tennis court or a batting cage or an enclosed court of any type. He confirmed that there

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 5

will be no lights for the court as the lights on the existing house are just for the existing patio and they will not be used for the new court. He mentioned that in response to a concern from the Perkins and P&Z Department staff, the roof was removed from the swing set/play equipment. It is approximately 7 feet from the closest play equipment to the Perkins property line. He said that the court is not permanent but could be removed, and he submitted a map and photographs of the site.

Mr. Coyle then submitted four letters from neighbors in support of this project (from Yezzi, Winebrenners, Ohrn & Galvin). Mr. Conze asked Mr. Coyle that if the swing set/play equipment bothers Mr. Perkins so much, why doesn't he move it. Mr. Coyle responded that he likes the swing set where it is and it is on flat land and not in the middle of their yard.

Mr. Jim Perkins of 20 Briar Brae Road then spoke. He said that he and his wife have two children and the swing set was moved into the direct view of his recently finished family room. The platform is about 5 feet in the air. At least a 6 foot fence could have a chance to block the view. He mentioned that he was not notified about the excavation for this proposed court. He then showed photographs of the site showing the other flat part of the property that could have been used for the court. He said that the location of the hoop is not shown on the plan and that there are not many fences within the neighborhood. Most back yards in this Briar Brae Road area flow into each other.

Mr. Perkins believed that it is not appropriate to concentrate asphalt or courts or activity in the area. He said that Mr. Coyle could put up a hoop on the garage and put a fence on the retaining wall that they built a few years ago. He believed that the noise of the basketball and hitting the rim with the basketballs could be annoying and it is not typical to see asphalt or basketball courts in back yards within this area. He believed that this would set a bad precedent for Darien and he doubts the accuracy of the Coyles' measurements. Mr. Spain asked whether some of Mr. Perkins concerns could be cured through an as-built survey to confirm compliance with setbacks and a permit for any regrading. Mr. Spain added that playing basketball is commonly accepted practice and if the driveway was on the east side of the Coyles site, then the play area would be much, much closer to the Perkins house.

Mr. Perkins believed that the application was not complete and was concerned about the asphalt, the scale, the proximity, the view of the court, and the view from the court. He believed that it is inconsistent with the Town Plan which talks about reduction in impervious surfaces. He then specifically referred to Section 100 of the Darien Zoning Regulations as well as Section 1005-a. He specifically noted that Section 1005-a states that any development must be in harmony with the residential district. He believed that the scale of the court will encourage large games and will discourage appropriate development and use of adjacent properties. He believed that it is a dramatic change from old growth trees and grass to asphalt.

Ms. Bridget Tobin, who is married to Mr. Perkins, said that she has lived on her property for about 11 years. She noted that a Rainbow Circle application for a court was denied by the Zoning Board of Appeals a few years ago. She said that large new houses are being re-developed within the neighborhood and there are approximately 12 driveway basketball courts on the street all with slanted driveways. She believed that property owners cannot start paving everything. She then specifically referred to photograph #17 of the Coyle driveway and mentioned that all the other driveways slope as much or more than the Coyle's driveway. She also mentioned that there is not much traffic on the street. She believed that the proposed court will damage the natural

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 6

environment as the Coyles have already removed two large trees. Mr. Spain asked whether the issue is more of a nuisance issue than anything.

Mr. Ginsberg said that as Planning & Zoning Director, he waived the need for a traffic study for this project. Mr. Keating added that the court is now "roughed in" and still needs to have a hard surface, necessary drainage and any necessary landscaping and stabilization.

Mr. Coyle summarized by noting that there will be no lights on the court and that he has not done an engineering study of the drainage but just asked the contractor to account for drainage from the court. The hoop would be on the east side of the court in the middle of the 30 foot long side and it will be a maximum 15 foot shot on both sides. This hoop cannot go on the west side of the court as it would then be in the middle of the back yard and in danger of being run into. It cannot go on the south side due to trees overhead.

Mr. Perkins responded that the location of the basketball hoop goes to the whole issue of nuisance. They would be looking from their property at the back of the back board. He then referred to Tab 11 in his package and said that if the court has to be there, he would like to have the hoop on the south or west side of the court. Mr. Coyle added that there is a family room over the neighbor's garage to the rear of his property. There being no other questions from Commission members or comments from the general public, the public hearing on this matter was then closed.

At 10:50 P.M., Mr. Damanti then read the next agenda item:

Flood Damage Prevention Application #232, Land Filling & Regrading Application #154, Nicholas & Stacia Branca, 14 Shipway Road. Proposing to raze existing house and construct a new single-family residence and perform related site development activities within a regulated area. The subject property is located on the north side of Shipway Road, at the northwest corner formed by its intersection with Plymouth Road, and is shown on Assessor's Map #57 as Lot #34, R-1 Zone.

Architect Chad Nehring was present on behalf of the property owners, the Brancas. He noted that a portion of the property is in Flood Zone AE Elevation 11. They propose to raze the existing residence and construct a new residence. The new residence would comply with all setbacks and height restrictions and contain approximately 15.3% building coverage. He explained that the existing average grade on the property is Elevation 8. The proposed average grade around the house would be at Elevation 9. The garage would be constructed at Elevation 9.5 and the first floor of the proposed residence would be at Elevation 13. A flood venting system is proposed to be installed as part of this project. A proposed stone landscape wall will be constructed in the front of the house to break the change between street at Elevation 7 to the floor which will be at Elevation 13. 288 cubic yards of fill will be used on site; some from the footing excavations.

Dainius Virbiokas, a professional engineer with Artel Engineering Group LLC, then explained that storm drainage would be installed. He referred to the submitted Drainage Analysis. 216 linear feet of galleries will be installed for roof drain infiltration. The proposed residence will be connected to municipal sewer and water. There will be no increase in water in the storm drain system. There will be an increase of approximately 5,000 square feet of impervious surface as a result of this project. There will be infiltrators installed. Maintenance of those infiltrators will involve periodic

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 7

inspection especially if there is prolonged flooding. Any raising of the ground water in the area may hinder the effectiveness of those infiltrators.

There being no comments from the general public or Commission members, the public hearing on this matter was then closed. Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #152, Sean Shay, 3 Hawthorne Road/Salem Straits.

Proposing to excavate, fill, and regrade to construct swimming pool and associated terrace, septic system and driveway and perform related site development activities. The subject property is located on the north side of Salem Straits, approximately 300 feet south of its intersection with Goodwives River Road, and is shown on Assessor's Map #62 as Lot #42, R-1 Zone.

Mr. Todd Ritchie, a professional engineer with Stearns & Wheler then presented the application. He explained that a Building Permit was recently granted for the proposed residence with some limited regrading. They are proposing additional regrading which is necessary to complete the proposed driveway, the swimming pool, and drainage. They will need to remove approximately 2,660 cubic yards of fill and 240 cubic yards of that will be used for regrading on site. There will be a net removal of 2,400 cubic yards of fill. Sanitary sewers are now being designed for Hawthorne Road. A gallery system for over 3,000 cubic yards of storage with overflows is being proposed as part of this application.

Mr. Sean Shay explained that he has obtained approval from the Darien Health Department to perform the septic system installation, but he is still working with the Sewer Commission on a possible sanitary sewer extension. He may tie into the sanitary sewer if possible.

There being no other questions or comments, the public hearing was then closed at 11:05 P.M.

GENERAL MEETING

Mr. Damanti then read the next agenda item:

Mandatory Referral, Sewer Commission, Andrews Drive and Brushy Hill Road sanitary sewer extensions.

Mr. Ginsberg then outlined the Mandatory Referral request from the Darien Sewer Commission. He said that he believes that the proposal is in conformance with both the 1995 and the 2005/2006 Town Plan of Conservation and Development. Commission members agreed, and asked Mr. Ginsberg to prepare a positive report for their consideration at an upcoming meeting.

Time Permitting:

Discussion and Deliberation on public hearing items closed this evening.

Commission members briefly discussed the public hearings which were closed regarding the Noroton Fire Department, Coyle, Branca and Shay. The consensus was to ask staff to draft resolutions regarding the Fire Department and Shay, with Coyle and Branca to be placed on the February 7th agenda for discussion and deliberation only.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JANUARY 24, 2006
PAGE 8

There being no other business, the meeting was then adjourned at 11:15 P.M.

Respectfully submitted,

Jeremy B. Ginsberg

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